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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In Re: )  
Amendment of Section 73.202(b) )  
Table of Allotments, FM )  
Broadcast Stations )  
(Eldon and Dixon, Missouri)

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To, Chief, Allocations Branch

PETITION FOR RULEMAKING

Capital Media, Inc. ("Capital"), by its attorney hereby petitions to amend Section 73.202(b) of the Commission's Rules, Table of FM Allotments, with respect to the communities listed below, as follows:

<u>Community</u>	<u>Present Channel(s)</u>	<u>Proposed Channel(s)</u>
Eldon, MO	224C2, 270A	224C1, 270A
Dixon, MO	221A	264A

Specifically, Capital proposed the substitution of Channel 224C1 for 224C2 at Eldon, Missouri, and the substitution of Channel 264A for recently allotted, but vacant, Channel 221A at Dixon, Missouri.

Capital is the licensee of Station KLOZ(FM), Eldon, Missouri, which currently operates on Channel 224C2. Capital is proposing these allotment changes so that it can upgrade the facilities of Station KLOZ to Class C1. Upon adoption of the allotment changes proposed herein, Capital will promptly file an application for a construction permit to upgrade the facilities of Station KLOZ and, upon grant of the construction permit, Capital will promptly implement the upgrade.

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The Engineering Statement notes that, although the proposed use of Channel 224C1 by Station KLOZ is short-spaced to the existing use of Channel 224A by Station KYLS at Ironton, Missouri, KYLS holds a construction permit to move to Channel 225A and the implementation of this channel change will eliminate the short-spacing between Station KYLS and the proposed operation of KLOZ on Channel 224C1.

The Engineering Statement also notes that (i) the proposed allotment of Channel 224C1 for use by Station KLOZ at Eldon, Missouri, is short-spaced to a proposal, rejected in the *Report and Order* in MM Docket 89-120, DA 92-170 released February 20, 1992, 7 FCC Rcd 1449 (Chief, Alloc. Br.), to substitute Channel 221A for Channel 272A at Waynesville, Missouri, which proposal is the subject of a pending petition for reconsideration and (ii) the proposed substitution of Channel 264A for Channel 221A at Dixon, Missouri, is short-space to a proposal dismissed by the *Report and Order* in MM Docket 90-66, DA 92-538 released May 13, 1992, 7 FCC Rcd 3015 (Chief, Alloc. Br.), to substitute Channel 264A for Channel 228A at Osage Beach, Missouri, which is also the subject of a pending petition for reconsideration. The pendency of the petitions for reconsideration in Dockets MM 89-120 and 90-66 are not a bar to acceptance and consideration of this Petition for Rulemaking for the reasons discussed below.

**The Petition for Reconsideration in MM Docket 89-120**

In the *Report and Order* in MM Docket 92-214 wherein the Commission allotted channel 221A at Dixon, Missouri, FCC DA 95-

2250, 10 FCC Rcd 12624 (Chief, Alloc. Br. 1995), the Commission noted that this allotment conflicted with the proposal of Lake Broadcasting, Inc. ("Lake"), licensee of Station KBMX(FM), Eldon, Missouri, in MM Docket 89-120 to substitute Channel 221A for Channel 272A at Waynesville, Oregon, so as to enable KBMX to upgrade to Class C1 on its existing Channel, 270. The Commission, nevertheless, found this apparent conflict did not preclude the immediate allotment of Channel 221A to Dixon because (i) the Commission had found in Docket 89-120 that Channel 221A could not be assigned to Waynesville and (ii) Lake had stated its willingness to accept a Class C2 upgrade for KBMX which does not require a channel substitution at Waynesville, and has, in fact, filed an application to upgrade to Class C2 under the Commission's "one-step" upgrade procedures. *Id.* at note 11. Additionally, the Commission noted in Docket 92-214 that the proceedings in Docket 89-120 are being held in abeyance pending the outcome of proceedings in MM Docket 95-154 to determine whether Lake's licenses and construction permits should be revoked. *Id.* In these circumstances, the Commission determined that it would be contrary to the public interest to defer allotting Channel 221A at Dixon and opening a filing window for that channel; but that processing applications for the Dixon channel may be deferred.

Capital submits that acceptance and consideration of its instant proposal, notwithstanding the pendency of Lake's petition for reconsideration in Docket 89-120 which includes a proposed

substitution of Channel 221A at Waynesville as one of several alternatives, is warranted by the same considerations which led the Commission to allot Channel 221A at Dixon, Missouri, and to open a filing window for that channel. Moreover, Capital notes that the public interest will be further served by quickly adopting the allotment changes proposed by Capital on the condition that those changes be held in abeyance pending final resolution Docket 89-120, as such action will allow the Commission to process applications for the substituted channel, 265A, at Dixon, thus hastening the day when a first new service will become available in that community. Moreover, adoption of the allotment changes proposed herein will in no way prejudice Lake's rights, such as they might be, in Docket 89-120, as the situation would be exactly the same as it now is with Channel 221A allotted to Dixon, except that it would be the implementation of the allotment changes proposed herein rather than the processing of the Dixon applications that would be held in abeyance pending final resolution of Docket 89-120.<sup>1</sup>

#### **The Petition for Reconsideration in MM Docket 90-96**

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<sup>1</sup>But for the matters that led to institution of license revocation proceedings against Lake, Docket 89-120 would have been resolved long ago, and, under Commission precedent, the Commission's decision not to allot Channel 221A at Waynesville would have long since become final. In view of the substantial public interest benefits that would flow from adoption of the proposals herein which are discussed below, it would clearly be contrary to the public interest for the Commission to allow delay in finalization of the decision not to allot Channel 221A to Waynesville resulting from the pendency of the revocation proceedings pertaining to Lake to preclude Capital from proceeding to upgrade KLOZ so as to provide expanded service to the public.

A counterproposal filed in MM Docket 90-66 by Twenty-One Sound Communications ("Twenty-One"), licensee of Station KNSX, Steelville, which proposed the substitution of Channel 265A for Channel 228A at Osage Beach, Missouri, to permit the substitution of Channel 227C1 for Channel 227C2 at Steelville, Missouri, so that Station KNSX could upgrade its facilities was dismissed in by the *Report and Order, supra*, in that proceeding on the grounds that Twenty-One's counterproposal was not properly verified. The *Report and Order* which dismissed Twenty-One's petition substituted Channel 228C3 for Channel 228A at Osage Beach, Missouri, and modified the license of Station KYLC, Osage Beach, to specify operation on Channel 228C3. Twenty-One filed a petition for reconsideration of its counterproposal which was also not properly verified. On July 21, 1993, the Chief, Allocations Branch, issued an *Order to Show Cause* to the licensee of Station KYLC, DA 93-805, 9 FCC Rcd. 4915, directing it to show cause as to why that station's channel should not be changed to Channel 265A to accommodate the upgrade of Station KNSX as proposed by Twenty-One in its dismissed counterproposal which was the subject of a petition for reconsideration. In the *Show Cause Order*, the Chief, Allocations Branch, did not discuss the merits of Twenty-One's petition for reconsideration. However, he stated that the *Show Cause Order* was a procedural prerequisite for the Commission to proceed with its "analysis of Twenty-One's petition for reconsideration."

It is undisputed that Twenty-One's counterproposal was unverified. Accordingly, dismissal of the counterproposal for lack of proper verification was consistent with, and required by, a long line of Commission precedents, some of which were cited in the *Report and Order*. Moreover, as the Chief, Allocations Branch pointed out in dismissing Twenty-One's counterproposal, the Commission's rules relating to rulemaking proceeding specifically place parties on notice that their proposals must conform to the subscription and verification requirements of the Commission's rules. In these circumstances, it is inconceivable that once the Allocations Branch gets around to "analyzing" Twenty-One's petition it will grant the petition and consider its counterproposal on its merits. Twenty-One's petition for reconsideration, which has been pending for more than two and one half years, should have been disposed of long ago. Where it is so obvious that Twenty-One's petition for reconsideration must be denied, Capital should not be prevented from proceeding with its own upgrade proposal by the Commission's inaction in MM Docket 90-96. Rather, Capital's petition should be accepted and held in abeyance pending final action in Docket 90-96 which, it is to be expected, will occur in the not too distant future.

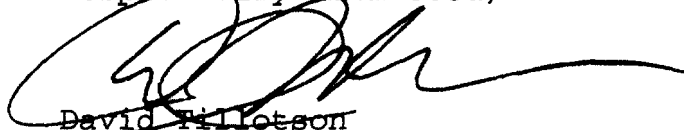
#### **Public Interest Benefits**

Adoption of the allotment changes proposed herein to permit KLOZ to upgrade from Class C2 to Class C1 will result in significant public interest benefits. Table 1.2 to the Engineering Statement shows that the proposed upgrade of KLOZ'

facilities will increase the area served by KLOZ by 93% (7,906 sq. km.) and will increase the population served by the station by 106% (158,392 people), and Fig. 1.3 and Table 1.3 to the Engineering Statement show that the upgrade would result in KLOZ providing a fourth full-time aural service to an area of 97.5 sq. km and 489 people and a fifth such service to an area of 293.8 km and 1,766 people.

WHEREFORE, for the foregoing reasons, it is respectfully submitted that a rulemaking proceeding should be instituted to consider adoption of the changes in the Table of FM Allotments proposed herein.

Respectfully submitted,



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3421 M Street, N.W., Suite 1739  
Washington, DC 20007  
Tel: 202/625-6241

Attorney for Capital Media, Inc.

Date: February 9, 1996

ENGINEERING STATEMENT IN  
SUPPORT OF PETITION  
FOR RULEMAKING  
CHANNEL 224C1 - ELDON, MO

Capital Media, Inc.  
Eldon, MO

February 8, 1996

Prepared for: Mr. Denny Benne  
Capital Media, Inc.  
209 East 2nd Street  
Eldon, MO 65026

**CARL E. SMITH CONSULTING ENGINEERS**



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Fourth or Fifth Full Time  
Aural Service

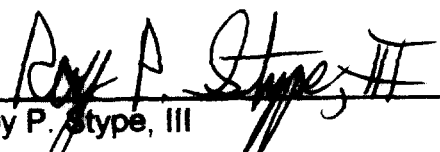
Table 1.3 - Area and Population Which Would  
Receive Fourth or Fifth Full Time  
Aural Service

# ENGINEERING AFFIDAVIT

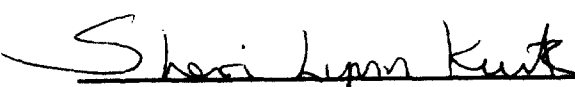
State of Ohio                                 )  
  ) ss:  
County of Summit                         )

Roy P. Stype, III, being duly sworn, deposes and states that he is a graduate Electrical Engineer, a qualified and experienced Communications Consulting Engineer whose works are a matter of record with the Federal Communications Commission and that he is a member of the Firm of "Carl E. Smith Consulting Engineers" located at 2324 North Cleveland-Massillon Road in the Township of Bath, County of Summit, State of Ohio, and that the Firm has been retained by Capital Media, Inc., to prepare the attached "Engineering Statement In Support Of Petition For Rulemaking - Channel 224C1 - Eldon, MO."

The deponent states that the Exhibit was prepared by him or under his direction and is true of his own knowledge, except as to statements made on information and belief and as to such statements, he believes them to be true.

  
\_\_\_\_\_  
Roy P. Stype, III

Subscribed and sworn to before me on **February 8, 1996.**

  
\_\_\_\_\_  
Notary Public

/SEAL/

SHERI LYNN KURTZ, Notary Public  
Residence - Summit County  
State Wide Jurisdiction, Ohio  
My Commission Expires June 14, 2000

## ENGINEERING STATEMENT

This engineering exhibit is prepared on behalf of Capital Media, Inc., licensee of Radio Station KLOZ(FM) - Eldon, Missouri, in support of a petition to amend the FM Table of Allotments to upgrade KLOZ to a Class C1 facility. The data contained in this exhibit shows that it is possible to substitute Channel 224C1 for Channel 224C2 in Eldon for use by KLOZ, provided that an appropriate channel substitution is made in Dixon, Missouri.

The geographic reference coordinates for Eldon are:

NL- 38° 20' 48"

WL- 92° 34' 54"

This places Eldon within Zone II, as defined by Section 73.205(c) of the FCC Rules. Accordingly, as outlined in Section 73.210(a) of the FCC Rules, the allotment of a Class C1 channel to Eldon is permitted. The studies contained in this exhibit were conducted from a site 5.7 kilometers east of these reference coordinates. The geographic coordinates of this site are:

NL- 38° 20' 30"

WL- 92° 31' 00"

This site also falls within Zone II, permitting the operation of a Class C1 facility from this site.

Table 1.0 is an FM allocation study for Channel 224C1 from the site described above. An examination of this table shows that operation on Channel 224C1 from this site would be short spaced to the present operation of KLOZ on Channel 224C2, as well as two additional facilities which require protection consideration:

Allotment	Dixon, MO	Channel 221A
KYLS(Lic.)	Ironton, MO	Channel 224A

Additionally, as shown in this table, the proposed use of Channel 224C1 from this site would also be short spaced to a proposal in a pending petition for reconsideration in MM Docket 89-120 to substitute Channel 221A for Channel 272A in Waynesville, Missouri, for use by KJPW-FM. For the reasons outlined in the attached petition for rulemaking, however, this short spacing should not pose an obstacle to the proposed upgrade of KLOZ.

The short spacing to the authorized operation of KLOZ on Channel 224C2 will not pose any problems since this authorized operation will be deleted if Channel 224C1 is substituted for Channel 224C2 in Eldon, as proposed herein. Furthermore, under the provisions of Section 1.420(g) of the FCC Rules, this conflict with the present operation of KLOZ will permit the KLOZ license to be modified to specify operation on Channel 224C1, regardless of other expressions of interest which might be received.

The short spacing to the licensed operation of KYLS - Ironton, Missouri, should also not pose any problems to this proposed upgrade. This is due to the fact that KYLS holds a construction permit, obtained under the FCC's "one step" filing procedures, to move to Channel 225A. The implementation of the facilities authorized by this construction permit will eliminate this short spacing.

The short spacing to the vacant allotment on Channel 221A in Dixon, Missouri, can be eliminated by substituting another channel for Channel 221A in Dixon. Table 1.1 is an FM allocation study for Channel 264A in Dixon which was conducted from a site 9.3 kilometers southeast of Dixon:

NL- 37° 56' 00"  
WL- 92° 01' 10"

As shown in this table, the proposed use of Channel 264A from this site would be short spaced to a proposal in a pending petition for reconsideration in MM Docket 90-66 to substitute Channel 265A for Channel 228A in Osage Beach, Missouri, for use by KYLC. For the reasons outlined in the attached petition for rulemaking, however, this short spacing should not pose an obstacle to the proposed allotment of Channel 264A to Dixon. It should be noted that the attached petition for rulemaking is being filed during the filing window for this allotment. Thus, it is not necessary for the sites specified in any applications which might be filed for this allotment during this filing window to comply with the spacing requirements on the proposed substitute channel. This is because the attached petition is timely filed for comparative consideration with the specific site preferences contained in any such applications.

Figure 1.0 is a map exhibit showing the predicted 3.16 mV/m (city grade) contour for KLOZ for operation on Channel 224C1 from the site specified above. This contour was projected assuming operation with maximum Class C1 facilities of 100 kilowatts effective radiated power at 299 meters above average terrain utilizing terrain data from the NGDC 30 second terrain database. As shown in this figure, it will be possible to provide city grade service to all of Eldon from this site on Channel 224C1.

Similarly, Figure 1.1 is a map exhibit showing the predicted 3.16 mV/m contour for operation from the site specified above for Channel 264A in Dixon. This contour was projected assuming operation with maximum Class A facilities of 6 kilowatts effective radiated power at 100 meters above average terrain utilizing terrain data from the NGDC 30 second terrain database. As shown in this figure, it will be possible to provide city grade service to all of Dixon from this site on Channel 264A.

Figure 1.2 is a map exhibit depicting the predicted 1 mV/m contour for the proposed operation of KLOZ on Channel 224C1 for operation with maximum Class C1 facilities from the coordinates outlined above. This figure also shows the predicted 1 mV/m contour for the present operation of KLOZ on Channel 224C2. Table 1.2 presents detailed data on the present and proposed populations and areas, as well as the gain area.

The proposed upgrade of KLOZ will also provide a fourth or fifth full time aural service to a portion of the proposed gain area. Figure 1.3 is a map exhibit depicting the areas which would receive a fourth or fifth full time aural service from the proposed upgraded operation of KLOZ. The areas and populations which would receive a fourth or fifth full time aural service from this proposed upgrade are documented in Table 1.3.

In summary, Channel 224C1 can be substituted for Channel 224C2 in Eldon, Missouri, for use by KLOZ, provided that Channel 264A is substituted for Channel 221A in Dixon, Missouri. This proposed upgrade would significantly increase the area and population within the KLOZ service area and would provide a fourth or fifth full time aural service to in excess of 2000 persons.

TABLE 1.0

## FM ALLOCATION STUDY - CHANNEL 224C1 (92.7 MHz) - ELDON, MO

-----  
CAPITAL MEDIA, INC.  
ELDON, MO

STUDY COORDINATES: 38/20/30 92/31/00

STATION	LOCATION	CHANNEL	CLASS	SPACING (km)	REQUIRED SPACING*	NOTES
-----	-----	-----	-----	-----	-----	-----
ALLOTMENT	Dixon, MO	221	A	50.82	75.0	3, 10, 11
KJPW	Waynesville, MO	221	A	66.25	75.0	8, 10
KSDL	Sedalia, MO	221	A	75.43	75.0	
KMFC	Centralia, MO	221	A	96.51	75.0	
KKOZ	Ava, MO	221	A	157.15	75.0	5, 11
KMOE	Butler, MO	221	A	158.24	75.0	
KDUG	Osceola, MO	222	A	99.09	75.0	
KKOZFM	Ava, MO	222	A	157.15	75.0	4
WILFM	St. Louis, MO	222	C	185.70	105.0	
KCMG	Mountain Grove, MO	223	A	135.95	133.0	5, 11
KAYX	Richmond, MO	223	A	148.06	133.0	
KSYN	Joplin, MO	223	C1	228.02	177.0	
KLOZ	Eldon, MO	224	C2	6.63	224.0	3, 10
KYLS	Ironton, MO	224	A	181.56	200.0	4, 10
KSJQ	Savannah, MO	224	C2	279.54	224.0	
WVZA	Herrin, IL	224	B1	295.65	233.0	5, 6
WOLZ	Taylorville, IL	224	B1	297.60	233.0	2, 5
KTWA	Ottumwa, IA	224	A	297.92	200.0	4
KMAL	Malden, MO	224	A	299.82	200.0	4
KTWA	Ottumwa, IA	224	C3	304.44	211.0	5, 11
WVZA	Herrin, IL	224	B1	306.69	233.0	1, 5, 7
KCTG	Ozark, MO	225	C2	171.75	158.0	
KYLS	Ironton, MO	225	A	181.56	133.0	1, 2, 5
KGRC	Hannibal, MO	225	C1	181.67	177.0	
KBDZ	Perryville, MO	226	A	239.11	75.0	
KNSX	Steelville, MO	227	C1	98.65	82.0	8
KNSX	Steelville, MO	227	C2	131.82	79.0	2, 3, 5
KMXV	Kansas City, MO	227	C	188.65	105.0	
KPRS	Kansas City, MO	277	C	188.65	41.0	
KAAM	Huntsville, MO	278	C2	137.38	27.0	2, 4

\* Required Spacing Per Section 73.207 of The FCC Rules

TABLE 1.0 (cont'd)

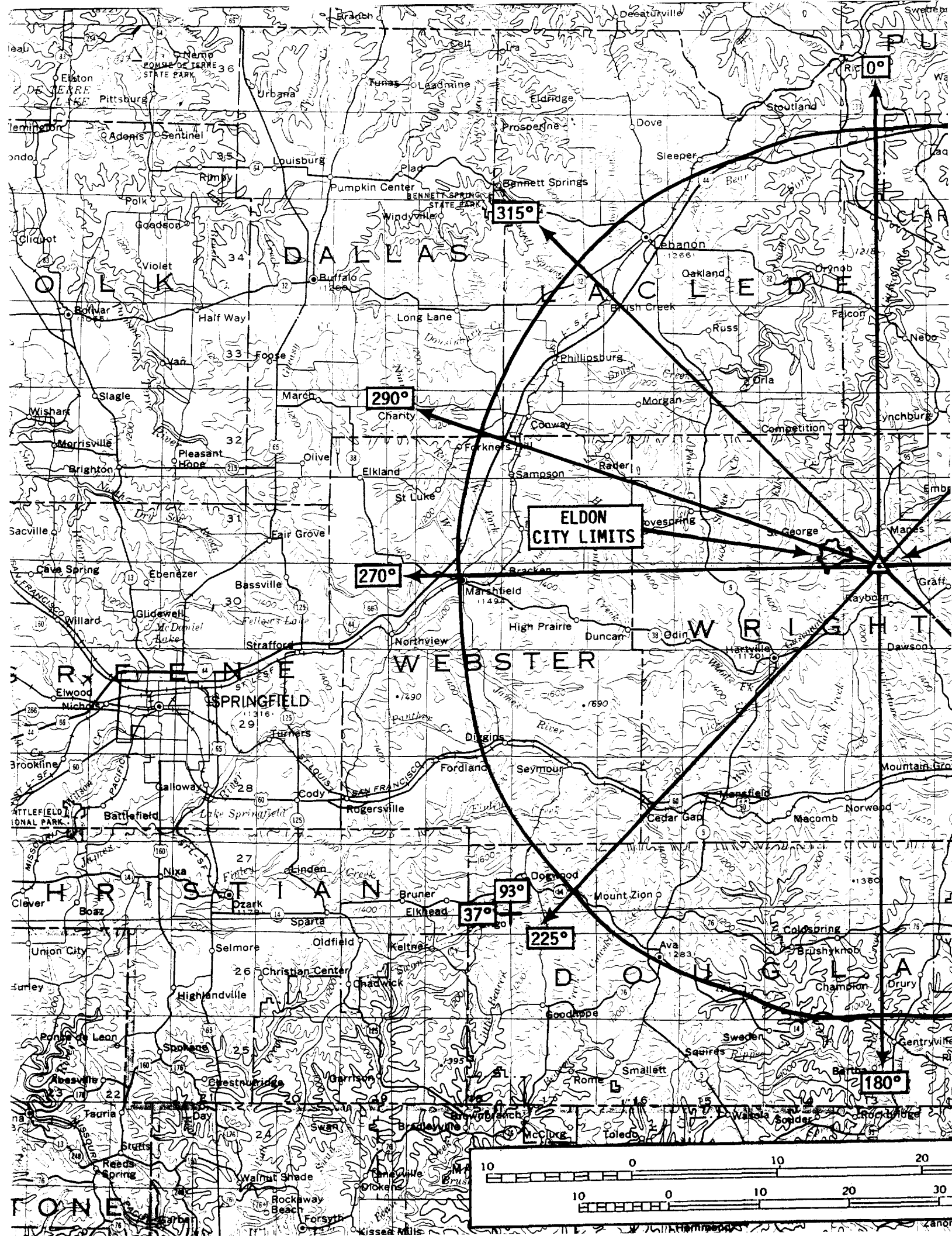
FM ALLOCATION STUDY - CHANNEL 224C1 (92.7 MHz) - ELDON, MO

-----  
CAPITAL MEDIA, INC.  
ELDON, MO

Notes:

- |                                      |                         |
|--------------------------------------|-------------------------|
| 1 - Applied For Under Section 73.215 | 7 - Pending Application |
| 2 - Construction Permit              | 8 - Proposed Rulemaking |
| 3 - Channel Deletion Proposed        | 9 - Rulemaking Petition |
| 4 - Move From This Channel Ordered   | 10 - Short-Spaced       |
| 5 - Move to This Channel Ordered     | 11 - Vacant Allotment   |
| 6 - One Step Reference Site          |                         |





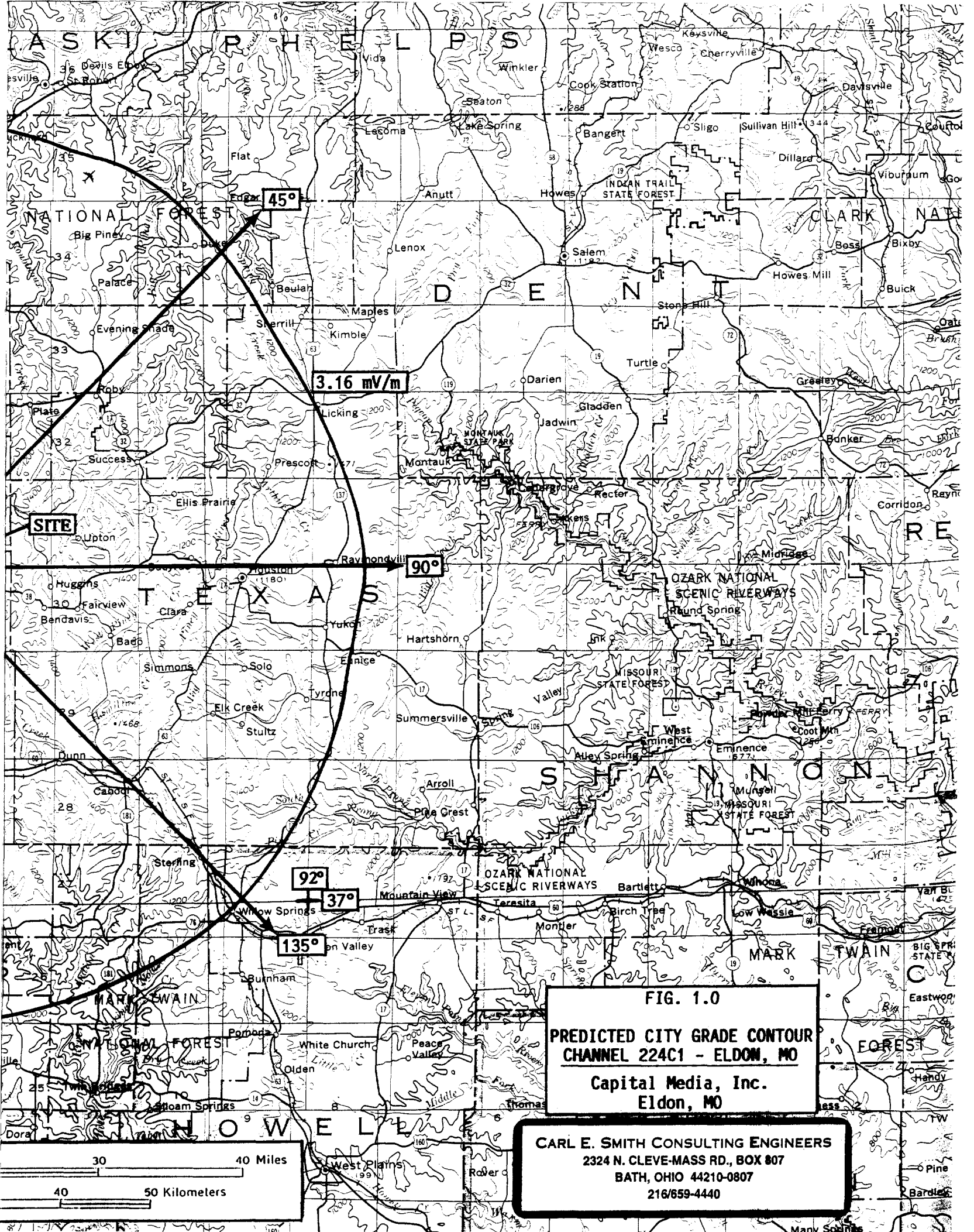


TABLE 1.1

## FM ALLOCATION STUDY - CHANNEL 264A (100.7 MHz) - DIXON, MO

-----  
 CAPITAL MEDIA, INC.  
 ELDON, MO

STUDY COORDINATES: 37/56/00 92/01/10

STATION -----	LOCATION -----	CHANNEL -----	CLASS -----	SPACING (km) -----	REQUIRED SPACING* (km) -----	NOTES -----
KTWK	Lebanon, MO	210	A	64.85	10.0	
KGNV	Washington, MO	210	A	108.79	10.0	
KAKU	Springfield, MO	211	A	121.41	10.0	2
KJMO	Jefferson City, MO	261	C2	73.78	55.0	
KDJR	De Soto, MO	261	A	127.99	31.0	
KUKUFM	Willow Springs, MO	262	C2	96.53	55.0	
KKCA	Fulton, MO	263	A	103.70	72.0	
KGMVFM	Aurora, MO	263	C2	161.95	106.0	
KZMM	Troy, MO	264	A	153.07	115.0	
KMZU	Carrollton, MO	264	C1	199.55	200.0	
KGMO	Cape Girardeau, MO	264	C	228.28	226.0	
KYLC	Osage Beach, MO	265	A	61.56	72.0	8, 10
KTUIFM	Sullivan, MO	265	A	78.64	72.0	
KESAR	Salem, AR	265	A	169.44	72.0	8
WVRV	East St. Louis, IL	266	C2	171.50	55.0	1, 2
KTXR	Springfield, MO	267	C	115.15	95.0	

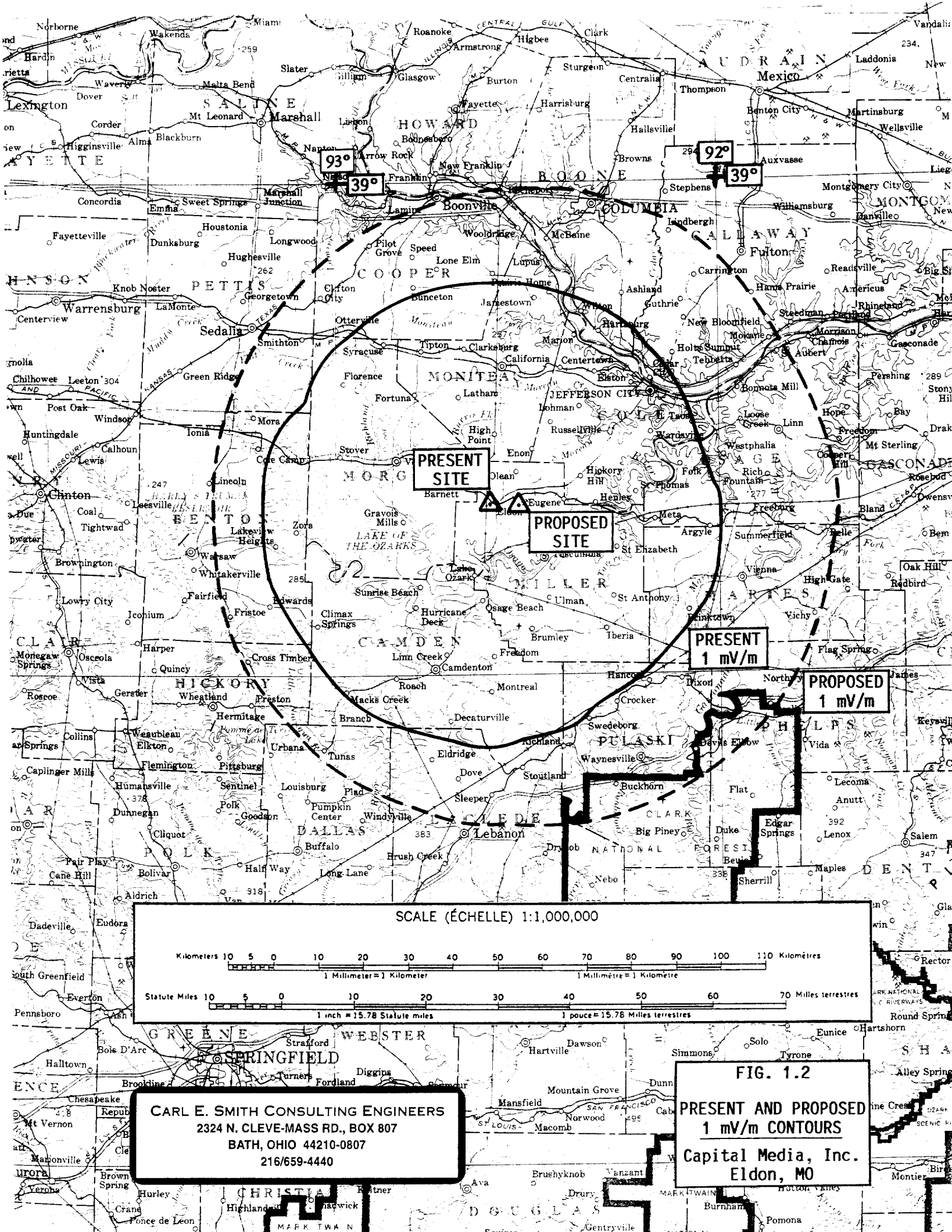
\* Required Spacing Per Section 73.207 of The FCC Rules

## Notes:

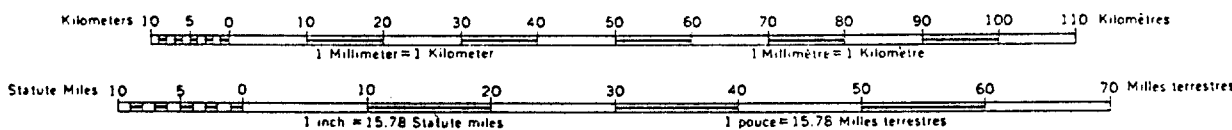
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| 5 - Move to This Channel Ordered     | 11 - Vacant Allotment   |
| 6 - One Step Reference Site          |                         |







SCALE (ÉCHELLE) 1:1,000,000



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FIG. 1.2

PRESENT AND PROPOSED  
1 mV/m CONTOURS

Capital Media, Inc.  
Eldon, MO

TABLE 1.2  
PRESENT AND PROPOSED  
AREA AND POPULATION  
Capital Media, Inc.  
Eldon, MO

	Area ( <u>Square Kilometers</u> )	Population ( <u>1990 Census</u> )
Present	8,522.8	148,183
Gain	7,906.3	158,392
Loss	0.0	0
Proposed	16,429.1	306,575
Net Gain	7,906.3	158,392

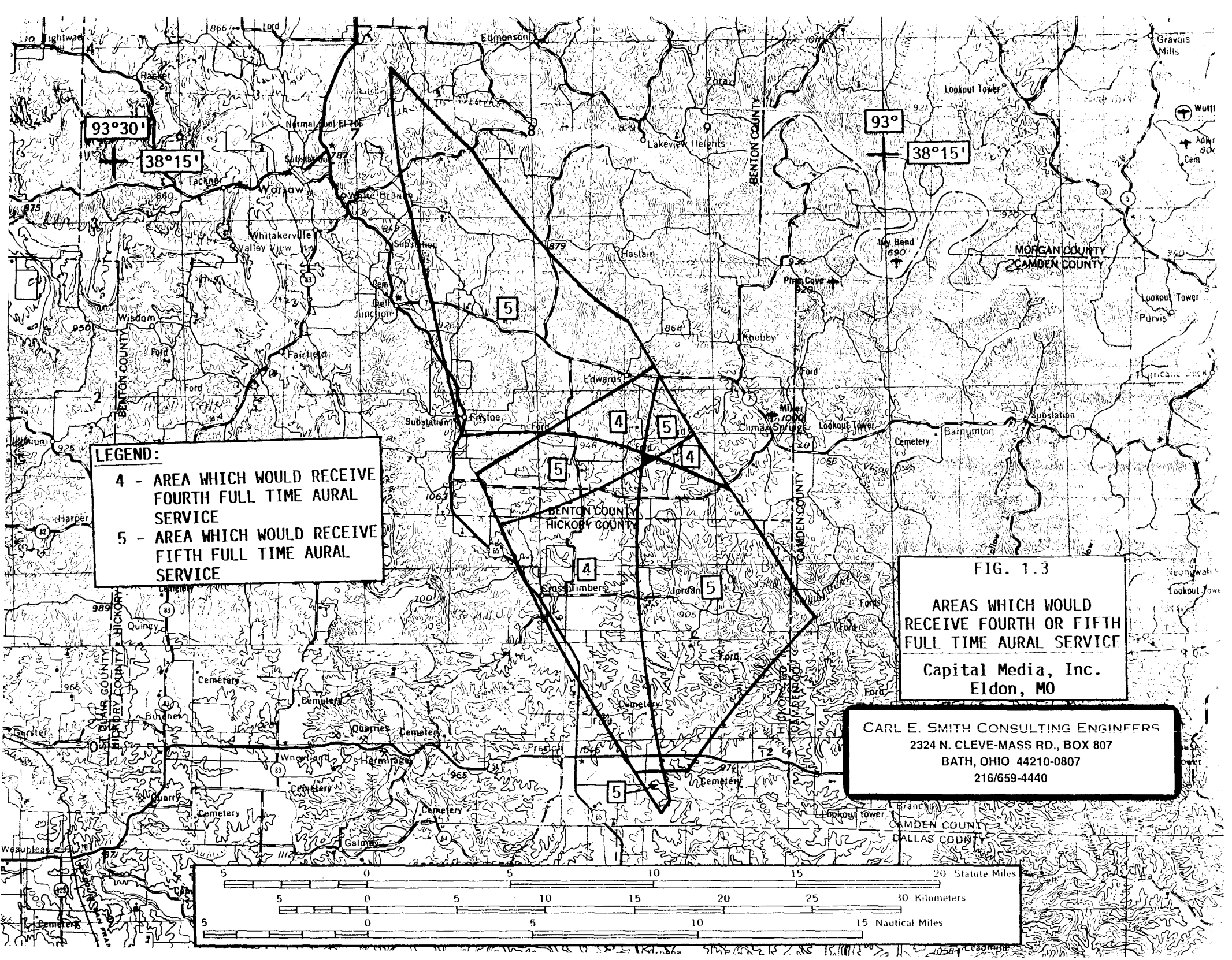


TABLE 1.3

AREA AND POPULATION WHICH  
WOULD RECEIVE FOURTH OR FIFTH  
FULL TIME AURAL SERVICE

Capital Media, Inc.  
Eldon, MO

	Area ( <u>Square Kilometers</u> )	Population ( <u>1990 Census</u> )
Fourth Full Time Aural Service	97.5	489
Fifth Full Time Aural Service	293.8	1766